



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

Bp8# 2320334

September 6, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Petition of PECO Energy Company for an Evidentiary Hearing
Docket No. P-2012-2320334

Dear Secretary Chiavetta:

Pursuant to the 29 August 2012 Prehearing Conference Order, please find enclosed the Prehearing Memorandum of the Statewide Evaluator in the docket referenced above.

The Statewide Evaluator has served copies on all Parties and Parties petitioning for intervention in accord with the attached Certificate of Service.

Please contact the undersigned should you have any questions at (717) 787-3464 or shsparks@pa.gov.

Sincerely,

Shaun A. Sparks
Assistant Counsel
Law Bureau

Enclosure

cc: As per Certificate of Service
Robert F. Young, Deputy Chief Counsel

RECEIVED
2012 SEP -6 AM 11:35
PA PUC
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company : Docket No. P-2012-2320334
For An Evidentiary Hearing :

**PREHEARING MEMORANDUM
OF THE
STATEWIDE EVALUATOR**

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, administrative counsel for the Statewide Evaluator (SWE) provides the following information:

I. INTRODUCTION AND BACKGROUND

On March 1, 2012, the Pennsylvania Public Utility Commission (Commission) requested comments regarding issues instrumental to its ongoing efforts to implement the requirements of Pennsylvania's Act 129 of 2008 (the Act or Act 129, effective November 14, 2008) codified at 66 Pa. C.S. §§ 2806.1 and 2806.2. The Commission also conducted a stakeholder meeting on March 16, 2012, to provide parties an opportunity to identify additional issues raised by its request for comments.

On May 11, 2012, the Commission entered a Tentative Implementation Order at Docket Nos. M-2012-2289411 and M-2012-2069887 seeking comments on proposed consumption reductions, guidelines for implementing Phase II of the Energy Efficiency and Conservation (EE&C) Program, and released the SWE's Market Potential Study.

The Commission directed interested parties to file comments and reply comments. The Commission also held a stakeholder meeting on June 5, 2012, to provide stakeholders with the opportunity for questions and answers with the SWE related to the baseline studies and the Market Potential Study. By comments and through stakeholder meetings, parties raised due process concerns regarding the data used by the Commission to set individual utility consumption targets.

On August 3, 2012, the Commission entered its Implementation Order that, *inter alia*, recognized the due process concerns raised by the parties. In response, the Commission provided for the instant proceeding to allow electric distribution companies to challenge the data underlying the consumption reduction requirements established for each company. *Energy Efficiency and Conservation Program*, Docket Nos. M-2012-2289411 and M-2008-2069887, Implementation Order at 30-32 (August 3, 2012). The SWE is participating in this proceeding in accord with the Implementation Order.

II. ISSUES AND SUB-ISSUES

The SWE does not intend to raise issues beyond the material contained in the previously released Statewide Evaluator reports and data. These reports and data include the following materials:¹

- 1) Electric Energy Efficiency Potential For Pennsylvania
 - a) Appendix 1 - Avoided Costs and General Model Inputs by EDC
 - b) Appendix 2 - Residential Sector Data

¹ The documents are available at: http://www.puc.state.pa.us/electric/Act_129_info.aspx.

- c) Appendix 2.2 - Measure Level TRC Ratios by EDC
- d) Appendix 2.3 – Measure Level Levelized Costs by EDC
- e) Appendix 3 - Commercial/Industrial Sector data

2) Pennsylvania Statewide Residential End-Use and Saturation Study

3) Pennsylvania Statewide Commercial & Industrial End Use & Saturation Study

III. SERVICE ON THE STATEWIDE EVALUATOR

The Statewide Evaluator will be represented in this case by administrative counsel Shaun A. Sparks and Krystle J. Sacavage. Counsel agrees to accept electronic service of documents. In addition to e-service to both Mr. Sparks (shsparks@pa.gov) and Ms. Sacavage (ksacavage@pa.gov), counsel requests that parties serve a hard copy of each document as follows:

Shaun A. Sparks
Assistant Counsel
Law Bureau
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265
Phone: 717-787-3464
Email: shsparks@pa.gov

IV. WITNESSES AND EVIDENCE

The SWE does not intend to present written expert testimony in addition to the reports and data discussed in Section II of this memorandum.

To avoid waste of Commonwealth resources, counsel respectfully requests that the Presiding Officer take judicial notice of the public online availability of the Statewide Evaluator reports and data on the Commission website for the limited purpose of service

of these materials on the parties. The SWE will provide hard copies of these materials to any requesting party and will provide hard copies to the Presiding Officer and court reporter. The SWE will provide expert witness qualifications in accord with the approved procedural schedule.

To expedite this proceeding, counsel requests that in addition to serving documents on counsel, parties send copies of all interrogatories and testimony (preferably in electronic format) directly to the following expert witnesses responsible for the Statewide Evaluator reports and data listed above.

Dick Spellman
President
GDS Associates, Inc.
Suite 800
1850 Parkway Place
Marietta, GA 30067
Phone: 770.425.8100
Email: Dick.Spellman@gdsassociates.com

Salil Gogte
Principal, Planning & Evaluation
Nexant, Inc.
101 Lindenwood Drive, Suite 127
Malvern, PA 19355
Phone: 610.786.7406
Email: sgogte@nexant.com

Patrick Burns
Principal, Planning & Evaluation
Nexant, Inc.
1401 Walnut Street
Boulder, CO 80302
Phone: 303.402.2493
Email: pburns@nexant.com

The Statewide Evaluator specifically reserves the right to call additional witnesses as necessary pending discovery and discovery responses from the Parties, if any.

Also in the interest of administrative efficiency, counsel requests that the Presiding Officer permit the SWE witnesses to provide panel testimony at any evidentiary hearings. This will work to avoid recalling witnesses during the cross-examination phase (and on redirect), if any.

V. PROPOSED SCHEDULE

The SWE will cooperate to develop an acceptable procedural schedule in accord with the limitations below. The SWE witnesses are available for evidentiary hearings September 26-28, and October 1-3, 9, 18-31.

VI. DISCOVERY

Appendix A contains proposed amendments to the Commission's discovery regulations. Administrative counsel believes that these amendments will assist the parties in clarifying issues and will help bring this proceeding to timely conclusion.

Respectfully submitted,



Shaun A. Sparks
Assistant Counsel
Law Bureau
Attorney ID 87372

Krystle J. Sacavage
Assistant Counsel
Law Bureau
Attorney ID 309151

Administrative Counsel for Statewide Evaluator

Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265
Phone: 717-787-3464

DATED: September 6, 2012

APPENDIX A

Petition of PECO Energy Company : **Docket No. P-2012-2320334**
For An Evidentiary Hearing :

PROPOSED AMENDMENTS TO DISCOVERY REGULATIONS

The SWE would propose to amend Commission discovery regulations in accord with the following:

- A. Answers to written interrogatories to be served in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories to be communicated orally within three (3) days of service; unresolved objections be served in writing within five (5) days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories to be filed with the ALJ within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories to be filed within three (3) days of service of such motions.
- E. Rulings over such motions to be issued, if possible, within seven (7) days of filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes to be served in-hand within ten (10) calendar days.
- G. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.
- H. Answers to on-the-record data requests to be served in-hand within seven (7) calendar days of the request.
- I. Responses to interrogatories served after Noon on Friday will be due as if served the following Monday.

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* regarding the Petition of PECO Energy Company for an Evidentiary Hearing at Docket No. P-2012-2320334.

Notification by First Class Mail and email addressed as follows:

Tishekia Williams, Esquire
Duquesne Light Company
16th Floor
411 Seventh Avenue
Pittsburgh, PA 15219
twilliams@duqlight.com

Thomas P. Gadsden, Esquire
Anthony DeCusatis, Esquire
Morgan Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103-2921
tgadsden@morganlewis.com
adecusatis@morganlewis.com

Joseph Otis Minott, Esquire
Clean Air Council
135 S. 19th Street, Suite 300
Philadelphia, PA 19103
joe_minott@cleanair.org

Heather M. Langeland, Esquire
PennFuture
Suite 2770
425 Sixth Avenue
Pittsburgh, PA 15219
langeland@pennfuture.org

Jeffrey J. Norton, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
Comverge
213 Market St, 8th Floor
P.O. Box 1248
Harrisburg, PA 17101
jnorton@eckertseamans.com
cshultz@eckertseamans.com

Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
pulp@palcgalaid.net

Zachary M. Fabish, Esquire
Sierra Club
50 F. Street, NW, 8th Floor
Washington, DC 20001
zachary.fabish@sierraclub.org

Jennedy Johnson, Esquire
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923
jjohnson@paoca.org

Anthony E. Gay, Esquire
Jack R. Garfinkle, Esquire
PECO Energy Company
2301 Market Street
PO Box 8699
Philadelphia, PA 19101-8699
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com

RECEIVED
2012 SEP -6 AM 11:52
FA PUC
SECRETARY'S BUREAU

HAND DELIVERED Addressed as follows:

Honorable Elizabeth Barnes
Administrative Law Judge
Pa Public Utility Commission
400 North Street, Second Floor
Po Box 3265
Harrisburg Pa 17105

Johnnie E. Simms, Esquire
Charles Daniel Shields, Esquire
Bi&E - PA Public Utility Commission
400 North Street, Second Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Kriss Brown, Esquire
Law Bureau - PA Public Utility Commission
400 North Street, Third Floor
PO Box 3265
Harrisburg, PA 17105-3265



Shaun A. Sparks
Assistant Counsel
Law Bureau
Pennsylvania Public Utility Commission

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: September 6, 2012

RECEIVED
2012 SEP -6 AM 11:52
PA PUC
SECRETARY'S BUREAU